



FEB 20 2007

**AFFILIATED AGENCIES**

*Orange County  
Transit District*

*Local Transportation  
Authority*

*Service Authority for  
Freeway Emergencies*

*Consolidated Transportation  
Service Agency*

*Congestion Management  
Agency*

*Service Authority for  
Abandoned Vehicles*

February 14, 2007

Mr. Dan Leavitt  
Deputy Director  
California High Speed Rail Authority  
925 L Street  
Suite 1425  
Sacramento, CA 95814

**SUBJECT: OCTA'S MEMORANDUM OF UNDERSTANDING NO. C-6-0732**

Dear Mr. Leavitt:

Enclosed please find one original copy of the above referenced subject for your records.

Should you have any contractual related questions, please feel free to contact Kathleen Perez at (714) 560-5743 or by e-mail at [kperez@octa.net](mailto:kperez@octa.net).

Sincerely,

Julie Smith  
Office Specialist  
Contract Administration and Materials Management

Enclosure(s)

1                                   **MEMORANDUM OF UNDERSTANDING C-6-0732**

2                                   **BY AND BETWEEN**

3                                   **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4                                   **AND**

5                                   **CALIFORNIA HIGH SPEED RAIL AUTHORITY**

6                                   **FOR**

7                                   **PREPARATION OF AN EIR/EIS REPORT AND AN ENVIROMENTAL ASSESSMENT**

8                                   **RECITALS:**

9                                   **THIS MEMORANDUM OF UNDERSTANDING (MOU)** is made and entered into on this  
10 25<sup>th</sup> day of September of 2006, by and between the Orange County Transportation Authority  
11 ("AUTHORITY") and the California High Speed Rail Authority (CHSRA), (AUTHORITY and CHSRA  
12 collectively referred to herein as "PARTIES" and "PARTY" means one of the PARTIES to this  
13 MOU), regarding the preparation of a Project-Level High-Speed Train (HST) Environmental Impact  
14 Report (EIR)/Environmental Impact Statement (EIS) for the LOSSAN Rail Corridor between Los  
15 Angeles and Anaheim, and an Environmental/Feasibility Assessment for a potential HST feeder  
16 service in the Anaheim to Ontario corridor (collectively hereinafter referred to as "PROJECTS," and  
17 "PROJECT" means one of the PROJECTS to this MOU) with regard to the following matters:

18                                   **WHEREAS**, CHSRA in partnership with the Federal Railroad Administration (FRA) has  
19 completed and certified a Program EIR/EIS for a proposed California High-Speed Train (HST)  
20 network linking the major metropolitan areas of the State of California. The HST system approved  
21 by CHSRA includes the "LOSSAN" rail corridor as the preferred alignment linking Los Angeles to  
22 Orange County; and

23                                   **WHEREAS**, within the LOSSAN rail corridor, the California Department of Transportation  
24 currently operates intercity passenger rail service, the "Surfliner", and the Southern California  
25 Regional Rail Authority (SCRRA) operates the Metrolink commuter rail service. AUTHORITY is  
26 considering proposing to enhance portions of the rail line over which existing services operate to

enhance services in a manner that would plan for, preserve the right-of-way, and lay the foundation for future HST service in this corridor. In the course of considering these enhancements, AUTHORITY believes it will benefit from the preparation of a Project-Level EIR/EIS document between Los Angeles and Anaheim by CHSRA and some of the technical studies which will be generated in the course of preparation of this Project-Level EIR/EIS; and

**WHEREAS**, the LOSSAN rail corridor Project-Level EIR/EIS studies will examine options for developing the LOSSAN corridor to accommodate HST, as well as Metrolink, Amtrak, and conventional freight. The Project-Level EIR/EIS document will evaluate in detail the alternatives for incremental phased implementation and will address site specific environmental impacts, in a manner which takes into account all existing rail services as well as incremental phases of development; and

**WHEREAS**, the authority and responsibility for the planning, construction, and operation of high-speed passenger train service at speeds exceeding 125 miles per hour in California is exclusively granted to CHSRA by Public Utilities Code Section 185032.a.2; and

**WHEREAS**, CHSRA has the authority to accept grants, fees, and allocations from the state, from political subdivisions of the state or from the federal government, foreign governments, and private sources (Public Utilities Code section 185034(4); and

**WHEREAS**, AUTHORITY adopted the 2006 Long-Range Transportation Plan (LRTP) to identify the facilities, services and programs necessary to meet the Orange County region's travel needs through the year 2030, and that document recognizes the need for high-speed ground transportation to serve these needs; and

**WHEREAS**, AUTHORITY is considering pursuing a high-speed passenger train service between Anaheim (ARTIC Station) and the Ontario Airport. The Anaheim to Ontario service is not included as part of CHSRA's preferred alignment. However, such a potential service could complement the statewide HST system and help to integrate it with other transit services as a "feeder" service with potential multi-modal connections to the statewide system at both ARTIC



Station in Anaheim and at the Ontario Airport. CHSRA involvement in assessing the feasibility of an Anaheim to Ontario Airport link will foster and ensure coordination in the design of the multi-modal hub stations to accommodate HST service and other transit services. AUTHORITY believes it will benefit from the preparation of an environmental/feasibility assessment between Anaheim (ARTIC Station) and the Ontario Airport by CHSRA and the technical studies which will be generated in the course of preparation of an environmental/feasibility assessment. Preparation of a feasibility assessment by CHSRA is an initial step in planning for high-speed train service; and

**WHEREAS**, it is the intent and purpose of this MOU to demonstrate the continuing desire of the PARTIES to cooperate and to share the results of their studies and to share their respective views on the subject of improvements and enhancements to the LOSSAN Rail Corridor (between Los Angeles and Anaheim), and the Anaheim to Ontario corridor in a manner which best contributes to the public good, and in a manner which reduces or eliminates unnecessary duplicative effort; and

**NOW, THEREFORE**, it is mutually understood and agreed to by the PARTIES as follows:

1. The PARTIES agree to continue to work cooperatively throughout the preparation of CHSRA's Project-Level EIR/EIS for the Los Angeles to Anaheim segment of the LOSSAN Rail Corridor and a potential HST environmental/feasibility assessment by CHSRA of the Anaheim to Ontario corridor.

2. CHSRA will manage the Project-Level EIR/EIS process between Los Angeles and Anaheim and obtain funding for the non Orange County (Los Angeles County) portion of the process estimated at up to \$13 million, and expend these funds over three fiscal years starting Fiscal Year 2006/2007, subject to state budget allocations and spending authorization and consistent with statutory authority. CHSRA will prepare, or contract for the preparation of, the EIR/EIS, supporting documentation (all required reports, presentations, and deliverables), and public noticing, and furnish all personnel, facilities, and equipment necessary to complete and certify the EIR/EIS. CHSRA will maintain and retain all records associated with the EIR/EIS.

1           3.     AUTHORITY will fund the Orange County portion of the Los Angeles to Anaheim  
2 Project-Level EIR/EIS (estimated at up to \$7 million) in local funds over two fiscal years starting  
3 Fiscal year 2007/2008 (\$3.5 million each year) with details of the funding subject to a future  
4 Agreement. AUTHORITY will provide technical and policy input in the preparation of the Project-  
5 Level EIR/EIS including providing reviews, comments and technical support in a timely manner.  
6 AUTHORITY will support CHSRA in seeking such additional state funding as may be needed to  
7 complete these studies.

8           4.     In preparing its Project-Level EIR/EIS, CHSRA will take into account and coordinate  
9 with, to the extent it is appropriate to do so, the other technical studies and proposed improvements  
10 which have been prepared and will be prepared with reference to the greater LOSSAN Corridor  
11 (including AUTHORITY's planned Metrolink expansion). CHSRA will be responsible for obtaining  
12 the necessary documents to do such.

13          5.     The PARTIES recognize that realistic planning for the future of the LOSSAN Rail  
14 Corridor requires recognition of existing constraints along this corridor and also requires recognition  
15 of the need for cooperation and coordination among all of the agencies which have responsibilities  
16 to address public transportation needs along that corridor. Staff of CHSRA and AUTHORITY, will  
17 cooperate fully in the exchange of information and will work together, under the oversight of CHSRA,  
18 in order to satisfy this need.

19          6.     Contingent on federal and/or future state funding, CHSRA will actively manage and  
20 contract for an environmental/feasibility assessment for the Anaheim to Ontario corridor, estimated  
21 to cost up to \$3 million and to take two years to complete. CHSRA will seek \$3 million in federal  
22 funds starting in Fiscal Year 2006/2007 for the work effort, and will seek state funding for the portion  
23 of federal funds, up to \$3 million, if not available. If adequate funding is provided, CHSRA will  
24 prepare the environmental/feasibility assessment and supporting documentation, furnish all  
25 personnel, facilities, equipment necessary to perform scope, all required reports, presentations and  
26 deliverables, and maintain and retain all records associated with the studies. CHSRA staff will meet  
regularly with OCTA staff and with the staff of local and regional agencies with regard to the



Anaheim to Ontario corridor to discuss technical matters related to this project.

7. AUTHORITY will actively participate in the Anaheim to Ontario environmental/feasibility assessment effort and support CHSRA in seeking federal and state funding. AUTHORITY will provide technical and policy input and technical support, review and comment on documents in a timely manner, and its staff will actively work with CHSRA's staff for this corridor.

8. Each PARTY agrees to encourage public awareness of and involvement in the environmental review processes in which the agencies are engaged.

9. The PARTIES agree that the primary purpose, intent and spirit of this MOU are to continue and to expand cooperation among the PARTIES and to develop the framework for future Cooperative Agreements. To this end, the PARTIES agree to share the results of their work, including technical studies, and to confer at regular and frequent intervals.

10. Each PARTY intends to use the products of the technical studies consistent with its respective authority and to the maximum extent possible.

11. The PARTIES recognize that under state and federal law, any PARTY preparing an environmental document has certain obligations and responsibilities with respect to the preparation of that document, and with respect to intermediate decisions which must be made in the course of preparation of the document. The PARTIES further recognize that there are obligations and responsibilities which cannot be delegated or assigned by the preparing PARTY to someone else or to another agency. Nothing in this MOU is intended to affect those obligations and responsibilities, nor to affect in any way which is contrary to the law the decision-making responsibilities of either PARTY to this MOU. Each PARTY to this MOU is responsible for making its own determination as to the usefulness or as to the propriety of its use of or reliance upon the work product of the other PARTY to this MOU. It is not intended by this MOU that either PARTY to this MOU represents or warrants that its work product is sufficient for the purposes to which the other PARTY may wish to apply that work product. This MOU does not reduce, expand, transfer, or alter in any way, any of the statutory or regulatory authorities and responsibilities of any of the signatories.

12. It is noted that there may be differences in the nature of what CHSRA is studying and that which AUTHORITY will be considering. This MOU does not constitute a decision by CHSRA or by its staff regarding the selection, timing or phasing of one HST corridor or segment over another as part of the system defined in the certified Program EIR/EIS and approved by CHSRA. This MOU is not intended to constitute and does not constitute any limitation on the CHSRA's decision making.

13. Each PARTY shall provide a technical lead to exchange information between each other concerning the PROJECTS.

14. Each PARTY agrees to cooperate and coordinate with the other PARTY, its staff, contractors, consultants, vendors, etc. providing services required under this MOU to the extent practicable in the performance of the PROJECTS and in their other respective responsibilities under this MOU.

15. The PARTIES agree to work diligently together and in good faith, using their best efforts to resolve any unforeseen issues and disputes arising out of the performance of this MOU.

16. This MOU may only be modified or amended in writing. All modifications, amendments, changes and revisions of this MOU in whole or part, and from time to time, shall be binding upon the PARTIES, so long as the same shall be in writing and executed by the PARTIES.

17. This MOU shall be governed by and construed with the Federal, State and Local laws. The PARTIES warrant that in the performance of this MOU, each shall comply with all applicable Federal, State and Local laws, statutes and ordinances and all lawful orders, rules and regulations promulgated thereunder.

18. This MOU, including all exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the term(s) and condition(s) of the MOU between the PARTIES and it supersedes all prior representations, understandings and communications. The invalidity in whole or part of any term or condition of this MOU shall not affect the validity of other term(s) or condition(s).

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19. Each PARTY shall be excused from performing its obligations under this MOU during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by federal, state or local government; national fuel shortage; or a material act or omission by any PARTY; when satisfactory evidence of such cause is presented to the other PARTY, and provided further such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the PARTY not performing.

20. Any notice sent by first class mail, postage paid, to the address and addressee, shall be deemed to have been given when in the ordinary course it would be delivered. The representatives of the PARTIES who are primarily responsible for the administration of this MOU, and to whom notices, demands and communications shall be given are as detailed as follows:

To CHSRA:

California High Speed Rail Authority

925 L Street

Suite 1425

Sacramento, CA 95814

Attention: Dan Leavitt, Deputy Director

(916/324-1541), dleavitt@hsr.ca.gov

c:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P. O. Box 14184

Orange, CA 92863-1584

Attention: Kathleen Perez, Section Manager

Capital Projects (714/560-5643), kperez@octa.net

c: Paul Taylor, Executive Director, Development

If there are any changes in the names and/or addresses listed above, the PARTY desiring to make such changes shall give a written notice to the other PARTY within five (5) days of such change.

21. This MOU shall continue in full force and effect through December 31, 2011, unless terminated earlier by mutual written consent by the PARTIES, or terminated by either Party for its convenience on 30 days written notice. The term of this MOU may only be extended upon mutual written agreement by the PARTIES.



IN WITNESS WHEREOF, the PARTIES hereto have caused this Memorandum of Understanding No. C-6-0732 to be executed on the date first above written.

CALIFORNIA HIGH SPEED RAIL  
AUTHORITY

By: Medhi Morshed

Medhi Morshed  
Executive Director

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: Arthur T. Leahy

Arthur T. Leahy  
Chief Executive Officer

APPROVED AS TO FORM:

By: \_\_\_\_\_

Name:  
Title:

By: Kennard R. Smart, Jr.

Kennard R. Smart, Jr.  
General Counsel

APPROVAL RECOMMENDED:

By: \_\_\_\_\_

Name:  
Title:

By: Paul C. Taylor

Paul C. Taylor, Executive Director,  
Development

Date: \_\_\_\_\_

Date: 1/16/07